

STATE OF MICHIGAN
COURT OF CLAIMS

MICHIGAN OPEN CARRY, INC.,

Plaintiff,

No. 18-0000058-CZ

v

HON. COLLEEN A. O'BRIEN

MICHIGAN DEPARTMENT OF STATE
POLICE A/K/A MICHIGAN STATE POLICE,

Defendant.

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Attorney for Plaintiff
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**DEFENDANT'S BRIEF IN SUPPORT OF ITS 06/01/2018 MOTION FOR
SUMMARY DISPOSITION**

INTRODUCTION

Contemporaneously with the filing of this Freedom of Information Act (FOIA) complaint, Plaintiff Michigan Open Carry Incorporated's president spoke with the media and expressed his displeasure with the Department of Michigan State Police's (MSP) concealed pistol license reports (CPL reports). A review of these statements and Plaintiff's complaint demonstrate that Plaintiff is using the FOIA to

challenge MSP's compliance with CPL reporting requirements rather than filing a direct action.

Ultimately, however, Plaintiff's complaint must be dismissed because MSP provided Plaintiff with exactly the information that it described in its request. And despite how it labels its requested relief, Plaintiff seeks to litigate an issue outside the FOIA's province—i.e., whether MSP is complying with statutory CPL reporting requirements.

STATEMENT OF FACTS

Plaintiff submitted a FOIA request to MSP on September 28, 2017 in which it requested “[a] list of expenditures made by the Department of State Police from money received under the Firearms Act (1927 PA 372, MCL 28.421 et. seq.), regardless of purpose, between October 1, 2015 to September 30, 2016.” (Ex 1, FOIA request.) Plaintiff clarified that the information it was seeking “is required by law to be posted to the Department's website per Section 5e of 1927 PA 372, MCL 28.425e(5)(m).” (Ex 1.) MSP timely issued a written notice extending its response time by 10 business days and then granted Plaintiff's request on October 10, 2017. (Ex 2, written notice extending response time; Ex 4, written notice granting request.) In its written notice granting Plaintiff's request, MSP provided a link to its concealed pistol license (CPL) reports where the requested information was located. (Ex 4; Ex 7, Affidavit, Lance Gackstetter, ¶¶ 7-8.)

Plaintiff, allegedly unaware that MSP had extended its deadline to respond to the request, submitted what it purported to be an appeal of a final determination

to deny its request on October 10, 2017. (Ex 3, appeal.) Plaintiff explained that it was appealing because it did not receive a response to its request. (Ex 3.) And, the day after Plaintiff received MSP's written notice granting the request, Plaintiff sent an email indicating that it "wish[ed] to maintain its appeal." (Ex 5, email maintaining appeal.) On October 16, 2017, MSP responded to Plaintiff's appeal. (Ex 6, response to appeal.)

Plaintiff, in its amended complaint¹, alleges that (1) MSP violated the FOIA by failing to timely respond to the FOIA request, and, in the alternative, (2) MSP violated the FOIA by failing to certify that the requested records did not exist. (Compl, ¶¶ 36-40, 47.) Defendant MSP now moves for dismissal of the complaint because it timely responded to Plaintiff's FOIA request and provided Plaintiff with the information it requested.

STANDARD OF REVIEW

Summary disposition is available under MCR 2.116(C)(10) when "the affidavits or other documentary evidence, viewed in the light most favorable to the nonmoving party, show that there is no genuine issue as to any material fact and the moving party is therefore entitled to judgment as a matter of law." *Lowrey v LMPS & LMPJ, Inc*, 500 Mich 1, 5-6 (2016). The nonmoving party must then "set forth specific facts at the time of the motion showing a genuine issue for trial."

¹ As explained above in the Motion, Plaintiff filed an amended complaint to clarify that it was no longer alleging that MSP's response was untimely and that it did not result in an automatic denial.

Maiden v Rozwood, 461 Mich 109, 121 (1999). If the nonmoving party fails to do so, the grant of summary disposition is proper. *Lowrey*, 500 Mich at 7 (2016).

ARGUMENT

I. Count I must be dismissed because MSP granted and fulfilled Plaintiff's FOIA request.

In its FOIA request, Plaintiff requested “[a] list of expenditures made by the [MSP] from money received under the Firearms Act . . . regardless of purpose, between October 1, 2015 [and] September 30, 2016.” (Ex 1.) To clarify, Plaintiff then wrote “[f]or your convenience, please note that this information is required by law to be posted to [MSP’s] website per Section 5e of 1927 PA 372, MCL 28.425e(5)(m).” (Ex 1) (emphasis as in original). Plaintiff then quoted MCL 28.425e(5)(m). (Ex 1.)

In light of Plaintiff’s description, MSP’s assistant FOIA coordinator understood Plaintiff’s request as seeking information contained in MSP’s concealed pistol license annual report (CPL report) which is published pursuant to the statute that Plaintiff cited. (Ex 7, ¶ 7.) And the specific subsection that Plaintiff cited, MCL 28.425e(5)(m), refers only to expenditures made by MSP from money received under the Firearms act. With this understanding, the assistant FOIA coordinator

granted² Plaintiff's request, and supplied a link³ that contains each annual CPL report. (Ex 7, ¶ 8.) On page 3 of the CPL report for the fiscal year listed in Plaintiff's request, there are five separate line items of expenditures made by MSP from money received under the Firearms act that are responsive to the FOIA request. (Ex 8, 2015-2016 CPL report, p 3.)

Thus, because MSP provided the exact information that Plaintiff described—i.e. the information required to be published under MCL 28.425e(5)(m)—Count I must be dismissed.

II. Count II must be dismissed because MSP did not fail to certify the nonexistence of certain records—it provided Plaintiff with the information it requested.

The FOIA provides requesting persons with the right to inspect public records, but the requesting person must submit a “request that *describes a public record sufficiently* to enable the public body to find the public record.” MCL 15.233(1). Stated differently, while the requesting person does not need to “precisely” describe the information sought, a sufficiently described request must at

² MSP recognizes that, in FOIA actions, “[a] party's choice of labels is not binding on this Court.” *King v Michigan State Police Dept*, 303 Mich App 162, 189 (2013). However, in this particular instance, MSP did *grant* the request—it provided Plaintiff with the information described in its FOIA request and raised no exemptions to disclosure.

³ “If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the public body shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, shall include a specific webpage address where the requested information is available.” MCL 15.234(5).

least “enable the public body to find the public record [or information].” *Coblentz v City of Novi*, 475 Mich 558, 572 (2006).

In response to Plaintiff’s request that specifically described information that is required to be published under MCL 28.425e(5), MSP provided Plaintiff with a webpage address where the requested information is available. (Ex 4.) Yet, in Count II of its complaint, Plaintiff demands attorneys’ fees and punitive damages for an alleged failure to certify that the requested records do not exist. (Compl, ¶ 47.) Indeed, Plaintiff, in its October 10 letter, did convey that it was not satisfied with the information that MSP provided. (Ex 5.) But in that same letter, Plaintiff reiterated its desire to receive the information required to be published under MCL 28.425e(5)(m). (Ex 5.) And the MSP has provided that information.

Ultimately, if Plaintiff truly sought information different from what it was provided, it failed to submit a request for sufficiently described information in a manner that enabled MSP to find the information. See *Coblentz*, 475 Mich at 572. In its FOIA request, its purported appeal, and its letter maintaining its purported appeal, Plaintiff consistently asked for the information that MSP is required to publish under MCL 28.425e(5)(m). (Ex 1, 3, 5.) MSP provided Plaintiff with precisely that information because Plaintiff cited and quoted MCL 28.425e(5) in its request. (Ex 7, ¶ 7.)

In sum, the MSP had no obligation to provide a certification that the requested information did not exist because it granted Plaintiff’s request and

provided a webpage address where the information that Plaintiff requested is available. Therefore, Count II lacks merit and must be dismissed.

III. Plaintiff is challenging MSP's compliance with CPL reporting requirements; it is not challenging compliance with the FOIA

Lastly, it must be noted that Plaintiff's complaint and its statements given to the media demonstrate that Plaintiff is not challenging MSP's response to Plaintiff's FOIA request; rather it is challenging MSP's compliance with the CPL reporting requirements under MCL 28.425e(5). (See Ex 9, Gun group sues Michigan State Police to see how CPL fees are spent, Mlive, published April 9, 2018.) In statements given to the media, Plaintiff's president stated that

[w]e noticed that they were not reporting a list of expenditures, as the law dictates, but rather only a small list of general categories. Further, over 75 percent of their reported expenses . . . was grouped into a generic category of support systems. [Ex 9 (internal parenthetical inserts and quotation marks omitted).]

Plaintiff's president further added that "[t]he report 'does not come close to satisfying our [FOIA] request.'" (Ex 9.) The news article also reports that Plaintiff's president "believes MSP is required to disclose a list of expenditures that shows specifically what the money is spent on and how much." (Ex 9.)

After waiting nearly six months after MSP granted its FOIA request, Plaintiff decided to file the instant FOIA lawsuit—seemingly to express its displeasure with the contents of MSP's annual CPL reports. However, the FOIA

only allows⁴ a requesting person to “[c]ommence a civil action . . . to compel the public body’s disclosure of . . . public records” after the “public body makes a final determination deny . . . a request.” MCL 15.240(1)(b). In other words, the FOIA does not provide for a cause of action that allows the requesting person to challenge the contents of public records—it only allows for a requesting person to seek an order compelling disclosure of public records. Simply put, the FOIA is not the appropriate statutory vehicle for Plaintiff to challenge MSP’s compliance with MCL 28.425e(5).

CONCLUSION AND RELIEF REQUESTED

It is clear from a review of Plaintiff’s FOIA request and MSP’s written notice granting the request that Plaintiff received the information that it specifically requested. And Plaintiff’s above-referenced statements to the media demonstrate that its complaint does not involve any violations of the FOIA but rather centers upon its allegations that MSP is not complying with statutory CPL reporting requirements.

Accordingly, for the reasons stated in its motion and brief, MSP requests that the Court enter an order dismissing Plaintiff’s complaint in its entirety under MCR 2.116(C)(10).

⁴ The FOIA also allows for a requesting person to commence a civil action for a fee reduction. MCL 15.240a. But, because MSP provided the requested electronically, no fee was charged.

Respectfully submitted,

Bill Schuette
Attorney General

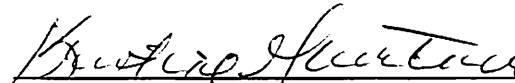


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Attorneys for Defendant
Michigan Dept. of Attorney General
State Operations Division
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Lansing, MI 48909
(517) 373-1162

Dated: June 1, 2018

PROOF OF SERVICE

I hereby certify that on June 1, 2018, I served a copy of the foregoing *Defendant's Brief in Support of its 06/01/2018 Motion for Summary Disposition* in this matter on all counsel of record at their last known addresses by U.S. mail, with first class postage fully prepaid.


Kristine Gaertner
Legal Secretary

#1

Gackstetter, Lance (MSP)

From: Tom Lambert <tlambert@miopencarry.org>
Sent: Thursday, September 28, 2017 12:01 PM
To: MSP-FOI
Cc: MiOC Board
Subject: MSP FOIA Request

To whom it may concern,

On behalf of Michigan Open Carry, Inc., and pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the Michigan Department of State Police:

- A list of expenditures made by the Department of State Police from money received under the Firearms Act (1927 PA 372, MCL 28.421 et. seq.), regardless of purpose, between October 1, 2015 to September 30, 2016.

For your convenience, please note that this information is required by law to be posted to the Department's website per Section 5e of 1927 PA 372, MCL 28.425e (5)(m).

(5) The department of state police shall by January 1 of each year file with the secretary of the senate and the clerk of the house of representatives, and post on the department of state police's internet website, an annual report setting forth all of the following information for the state for the previous fiscal year:

(m) A list of expenditures made by the department of state police from money received under this act, regardless of purpose.

I am also hereby requesting a waiver of all fees as the disclosure of the requested information is in the public interest, as well as required by law, and will contribute to the public's understanding and knowledge of the Department of State Police's operations.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Thank you,

Tom Lambert
President
Michigan Open Carry, Inc.

#2



STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

RICK SNYDER
GOVERNOR

COL. KRISTE KIBBEY ETUE
DIRECTOR

10/05/2017

TOM LAMBERT
MICHIGAN OPEN CARRY INC
XX
XX, MI 00000

NOTICE OF EXTENSION

Subject: CR-20048219; FIREARMS ACT;

Dear TOM LAMBERT:

The Michigan Department of State Police has received your request for public records under the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

We are extending the time for responding to your request by ten (10) business days, as permitted under MCL 15.235, Section 5(2)(d). Therefore, a written notice will be issued to you on or before October 19, 2017.

If you have any questions concerning this matter, please feel free to contact our office at 517-241-1934 or email MSP-FOI@michigan.gov. You may also write to us at the address listed below and enclose a copy of this correspondence.

To review a copy of the Department's written public summary, procedures and guidelines, go to www.michigan.gov/msp.

Sincerely,

LANCE GACKSTETTER
Freedom of Information Unit
Michigan State Police

#3

Gackstetter, Lance (MSP)

From: Tom Lambert <tlambert@miopencarry.org>
Sent: Tuesday, October 10, 2017 1:30 PM
To: Etue, Kriste (MSP)
Cc: MSP-FOI; MiOC Board
Subject: FOIA Denial APPEAL
Attachments: MOC FOIA Request.pdf; MSP Procedures and Guidelines.pdf; MSP Automatic Reply.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Col. Etue,

Pursuant to Section 10 of the Michigan Freedom of Information Act (FOIA), MCL 15.240(1)(a), I am hereby appealing the DENIAL of my FOIA request submitted to the Michigan Department of State Police (MSP) on September 28th, 2017, which I have attached as "MOC FOIA Request".

My request is for a list of expenditures made by the Department of State Police from money received under the Firearms Act (1927 PA 372, MCL 28.421 et. seq.), regardless of purpose, between October 1, 2015 to September 30, 2016.

As noted in my request, this information is statutorily required to be posted to the MSP's publicly available website on a yearly basis pursuant to MCL 28.425e(5)(m).

Background

On September 28th, 2017 at 12:00pm, I submitted on behalf of Michigan Open Carry, Inc. a FOIA request to the Michigan Department of State Police, pursuant to the FOIA, attached as "MOC FOIA Request". The request contained "FOIA" in both the subject line and within the first 250 words of the letter.

Per the MSP's publicly available FOIA Procedures and Guidelines, attached as "MSP Procedures and Guidelines", available at http://www.michigan.gov/msp/0,4643,7-123-1878_63999---,00.html, the request was submitted via email to MSP-FOI@michigan.gov.

Approximately 1 minute after sending the request, I received an email from MSP-FOI@michigan.gov with the subject line "*AUTOMATIC REPLY*", attached as "MSP Automatic Reply". The reply acknowledged the receipt of my request and indicated a response would be sent pursuant to the FOIA.

Under MCL 15.235 (1), because the request was sent via electronic mail, the request was considered received by the MSP one business day after it was sent, that date being September 29th, 2017.

Per MCL 15.235 (2), a public body who receives a request under the FOIA shall respond to a request for public information within 5 business days after the public body receives the request, doing one of four things. (a) granting the request, (b) denying the request, (c) granting in part and denying in part, or (d) extending the deadline to respond for not more than 10 business days.

As of October 10th, 2017, other than the initial automated reply, the MSP has not responded to the request.

Per MCL 15.235 (3), a failure of a body to respond to a qualifying request pursuant to Subsection 2, MCL 15.235 (2), "*constitutes a public body's final determination to deny the request*".

Per MCL 15.240 (1), "*If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option: (a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial. (b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.*"

This appeal follows

Reasons for Appeal

By not responding to my request pursuant to the FOIA, as the automated reply indicated would happen, the MSP has improperly denied my request. To date, no exemptions have been declared and no justifications to deny my request have been provided.

The Firearms Act mandates that the MSP report the information I have requested to legislative leadership, as well as post it publicly online by January 1st of each year.

MCL 28.425e(5)(m)

(5) The department of state police shall by January 1 of each year file with the secretary of the senate and the clerk of the house of representatives, **and post on the department of state police's internet website**, an annual report setting forth all of the following information for the state for the previous fiscal year:

(m) A list of expenditures made by the department of state police from money received under this act, regardless of purpose.

The FOIA requires a public body to notify a requestor if the information requested is available on the public body's public website, and direct the requestor to where the information can be obtained.

MCL 15.234 (5)

(5) If the public body directly or indirectly administers or maintains an official internet presence, **any public records available to the general public on that internet site at the time the request is made are exempt from any charges under subsection (1)(b). If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the public body shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, shall include a specific webpage address where the requested information is available. On the detailed itemization described in subsection (4), the public body shall separate the requested public records that are available on its website from those that are not available on the website and shall inform the requestor of the additional charge to receive copies of the public records that are available on its website. If the public body has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form as described under subsection (1)(c), the public body shall provide the public records in the specified format but may use a fringe benefit multiplier greater than the 50% limitation in subsection (2), not to exceed the actual costs of providing the information in the specified format.**

Further, if the MSP does not have the documents that I have requested, the FOIA still requires the disclosure of the fact that the requested documents do not exist (Hartzell v Mayvill Community Sch Dist, 183 Mich App 782; 455 NW2d 411 (1990)).

Action Requested

I ask that you please reverse the arbitrary denial of my request and comply with the FOIA fully at your soonest opportunity.

Lastly, please know that I'm happy to work with the MSP in good faith to obtain this information, if the MSP is willing to do the same.

Tom Lambert
President
Michigan Open Carry, Inc.

#4

Gackstetter, Lance (MSP)

From: MSP-FOI
Sent: Tuesday, October 10, 2017 3:19 PM
To: Tom Lambert
Cc: MiOC Board
Subject: RE: MSP FOIA Request
Attachments: 20048219 - Firearms Act Expenditures.pdf

Good afternoon, Mr. Lambert:

Attached is the response to your Freedom of Information Act request below.

Thank you,
MSP-FOI

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Thursday, September 28, 2017 12:01 PM
To: MSP-FOI
Cc: MiOC Board
Subject: MSP FOIA Request

To whom it may concern,

On behalf of Michigan Open Carry, Inc., and pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the Michigan Department of State Police:

- A list of expenditures made by the Department of State Police from money received under the Firearms Act (1927 PA 372, MCL 28.421 et. seq.), regardless of purpose, between October 1, 2015 to September 30, 2016.

For your convenience, please note that this information is required by law to be posted to the Department's website per Section 5e of 1927 PA 372, MCL 28.425e (5)(m).

(5) The department of state police shall by January 1 of each year file with the secretary of the senate and the clerk of the house of representatives, and post on the department of state police's internet website, an annual report setting forth all of the following information for the state for the previous fiscal year:

(m) A list of expenditures made by the department of state police from money received under this act, regardless of purpose.

I am also hereby requesting a waiver of all fees as the disclosure of the requested information is in the public interest, as well as required by law, and will contribute to the public's understanding and knowledge of the Department of State Police's operations.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Thank you,

Tom Lambert
President
Michigan Open Carry, Inc.



STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

RICK SNYDER
GOVERNOR

COL. KRISTE KIBBEY ETUE
DIRECTOR

October 11, 2017

Mr. Tom Lambert
Michigan Open Carry, Inc.
P.O. Box 16184
Lansing, Michigan 48901

Subject: CR-20048219; Firearms Act Expenditures

Dear Mr. Lambert:

The Department of Michigan State Police (MSP) has received your request for records and processed it under the provisions of the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

Your request is granted. The records you have requested are available on the department's website at http://www.michigan.gov/msp/0,4643,7-123-1878_1591_3503_4654-77621--,00.html. If you would like a paper copy, the cost to produce these records would be \$1.79.

You can submit a check or money order made payable to the STATE OF MICHIGAN and mail to P.O. Box 30266, Lansing, MI 48909. To ensure proper credit, please enclose a copy of this letter with your payment.

Under the FOIA, Section 10 (a copy of which is enclosed) you have the right to appeal to the head of this public body or to a judicial review of the denial. Under the FOIA, Section 10a (a copy of which is enclosed), you have the right to appeal the fee to the head of this public body.

To review a copy of the department's written public summary, procedures, and guidelines, go to www.michigan.gov/msp.

Sincerely,



Lance Gackstetter
Assistant FOIA Coordinator

Enclosures (2)

#5

Gackstetter, Lance (MSP)

From: Tom Lambert <tlambert@miopencarry.org>
Sent: Wednesday, October 11, 2017 1:30 PM
To: MSP-FOI
Cc: Etue, Kriste (MSP); MiOC Board
Subject: Re: MSP FOIA Request
Attachments: MOC Denial Appeal.pdf

Mr. Gackstetter,

Thank you for your response; however I have already appealed to the Director under MCL 15.240(1)(a), see "MOC Denial Appeal" attached, which requires the head of the public body to respond as specified in the section. At this time I wish to maintain this appeal as I do not believe I have been provided with the documentation I have requested.

In my request I explicitly requested, along with a full statutory reference to and quote of the related reporting requirement in Section 5e of the Firearms act:

- **A list of expenditures made by the Department of State Police from money received under the Firearms Act (1927 PA 372, MCL 28.421 et. seq.), regardless of purpose, between October 1, 2015 to September 30, 2016.**

The link you provided in your response (http://www.michigan.gov/msp/0,4643,7-123-1878_1591_3503_4654-77621--,00.html) does not direct one to a list of expenditures in a particular date range, but rather to a list of annual reports on Concealed Pistol Licenses dating back to 2003.

With respect to the link you provided, I will say that I have already looked through these reports many times and that it was the lack of the inclusion of information I seek that triggered this FOIA request.

In order to avoid any possible confusion going forward, please note that I am **not** requesting a list of reports, I am not requesting a summary of expenditures, nor am I requesting a list of expenditure categories. I am specifically looking for a **list of expenditures** as provided for in MCL 28.425e(5)(m).

Further, please note that Section 4 of the FOIA provides as follows in Subsection 5 (MCL 15.234 (5)) (emphasis added):

(5) If the public body directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any charges under subsection (1)(b). If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the public body shall notify the requestor in its written response that all or a portion of the requested information is available on its website. **The written response, to the degree practicable in the specific instance, shall include a specific webpage address where the requested information is available. [...]**

If you feel that I have missed something in your response that you feel complies with my request, then by all means please point specifically to what you think that is.

Lastly, as noted in my appeal, if the MSP does not have the documents that I have requested, the FOIA still requires the disclosure of the fact that the requested documents do not exist (Hartzell v Mayvill Community Sch Dist, 183 Mich App 782; 455 NW2d 411 (1990)).

Thank you for your time and consideration of my request for information, I look forward to a response to my appeal that complies with the FOIA.

Tom Lambert
President
Michigan Open Carry, Inc.

On Tue, Oct 10, 2017 at 3:19 PM, MSP-FOI <MSP-FOI@michigan.gov> wrote:

Good afternoon, Mr. Lambert:

Attached is the response to your Freedom of Information Act request below.

Thank you,

MSP-FOI

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Thursday, September 28, 2017 12:01 PM
To: MSP-FOI
Cc: MiOC Board
Subject: MSP FOIA Request

To whom it may concern,

On behalf of Michigan Open Carry, Inc., and pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the Michigan Department of State Police:

- A list of expenditures made by the Department of State Police from money received under the Firearms Act (1927 PA 372, MCL 28.421 et. seq.), regardless of purpose, between October 1, 2015 to September 30, 2016.

For your convenience, please note that this information is required by law to be posted to the Department's website per Section 5e of 1927 PA 372, MCL 28.425e (5)(m).

(5) The department of state police shall by January 1 of each year file with the secretary of the senate and the clerk of the house of representatives, and post on the department of state police's internet website, an annual report setting forth all of the following information for the state for the previous fiscal year:

(m) A list of expenditures made by the department of state police from money received under this act, regardless of purpose.

I am also hereby requesting a waiver of all fees as the disclosure of the requested information is in the public interest, as well as required by law, and will contribute to the public's understanding and knowledge of the Department of State Police's operations.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Thank you,

Tom Lambert

President

Michigan Open Carry, Inc.



46

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

COL. KRISTE KIBBEY ETUE
DIRECTOR

October 16, 2017

Mr. Tom Lambert
Michigan Open Carry, Inc.
P.O. Box 16184
Lansing, MI 48901

Subject Appeal, CR-20048219

Dear Mr. Lambert:

The Michigan State Police (MSP) has received your appeal which was sent via electronic mail on October 10, 2017. You requested a list of expenditures made by the MSP from money received under the Firearms Act between October 1, 2015, and September 30, 2016, under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

Your reason for appeal is that you allege the MSP failed to respond to your request and that no exemptions for the denial were provided.

Your appeal is denied. You submitted your FOIA request via electronic means on September 28, 2017. As provided in section 5(1) of the FOIA, your request was not considered received until September 29, 2017. Based on the received date, the MSP was obligated to respond to your request no later than October 6, 2017. An extension letter was mailed to you on October 5, 2017, notifying you that the MSP was taking a 10-business day extension as allowed by the FOIA. A second responsive letter granting your request was sent to you on October 11, 2017.

The MSP is obligated to inform you that under section 10 of the FOIA (a copy of which is enclosed) you may appeal the final decision of the public body by filing an action in the Court of Claims.

Sincerely,

Lori M. Hinkley
FOIA Appeals Officer
Michigan State Police

Enclosure

**STATE OF MICHIGAN FREEDOM OF INFORMATION ACT
FEE CALCULATION FORM**

File Number: CR-20048219

Requestor Name: TOM LAMBERT

Actual Costs

Labor (Search, Locate, Examine)*	Hourly Rate	Hours	Total
Labor (Separate/Delete)*	Hourly Rate	Hours	Total
Labor (Contractor)**	Hourly Rate	Hours	Total
Nonpaper Physical Media	Unit Cost	Units	Total
Paper Copies	Unit Cost	Units	Total
DOUBLE SIDED PAPER COPIES	\$ 0.05 / un	10	\$ 0.50
Labor (Duplication)*	Hourly Rate	Hours	Total
GENERAL OFFICE ASSISTANT	\$ 0.38 / hr	0.25 hrs	\$ 0.10
Indigent Waiver***			Total
Other Fees	Unit Cost	Units	Total
Mailing	Cost		Total
MAILING	\$ 1.19	1	\$ 1.19
Total:			\$ 1.79
Applied Payments:			\$ 0.00
Total Balance Due:			\$ 1.79

Part or all of the documents requested are available online at:

Cost to provide the online documents in paper form is \$ _____. If you prefer to have these documents mailed, please forward payment and a copy of this form to the Agency for processing. This will result in a new request.

Return a copy of this fee calculation with your payment to ensure proper credit. Make check or money order payable to STATE OF MICHIGAN.

*Cost includes hourly wage and an additional 50% to partially cover the cost of fringe benefits.

**Actual cost does not exceed 6x the state minimum hourly wage.

***Must provide proof of indigence.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or ~~compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a~~ public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

#7

STATE OF MICHIGAN
COURT OF CLAIMS

MICHIGAN OPEN CARRY, INC.,

Plaintiff,

No. 18-0000058-CZ

v

HON. COLLEEN A. O'BRIEN

MICHIGAN DEPARTMENT OF STATE
POLICE A/K/A MICHIGAN STATE POLICE,

Defendant.

Philip L. Ellison (P74117)
Outside Legal Counsel PLC
Attorney for Plaintiff
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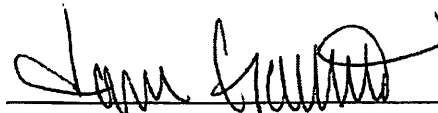
AFFIDAVIT OF LANCE GACKSTETTER

I, Lance Gackstetter, being first duly sworn, depose and say as follows:

1. This Affidavit is based upon my personal knowledge.
2. If sworn as a witness, I can testify competently as to the facts stated herein.
3. I am employed by the Michigan Department of State Police (MSP) as a departmental analyst in its Records Resource Section.
4. In my capacity as a departmental analyst with the MSP, I serve as an assistant FOIA coordinator.

5. In my role as assistant FOIA coordinator, I was involved with the processing of Mr. Lambert's September 2017 FOIA request submitted on behalf of Michigan Open Carry, Inc.
6. In the FOIA request, Mr. Lambert specifically requested "[a] list of expenditures made by the Department of State Police from money received under the Firearms Act (1927 PA 372, MCL 28.421 et seq.), regardless of purpose, between October 1, 2015 to September 30, 2016." (Request attached as exhibit 1 to this affidavit). Mr. Lambert then clarified the request by writing that the requested information "is required by law to be posted to the Department's website per Section 5e of 1927 PA 372, MCL 28.425e(5)(m)."
7. Because Mr. Lambert stated that the information he was requesting was required by law to be posted to the Department's website under MCL 28.425e(5)(m), I understood Mr. Lambert to be requesting information that is available in MSP's annual concealed pistol license (CPL) reports that are published pursuant to that statute.
8. I granted Mr. Lambert's request and did not exempt any portion of the reports under MCL 15.243 because the CPL reports are publicly available on MSP's website. And because the CPL reports are available on MSP's website, I provided Mr. Lambert with a link to the CPL reports instead of providing paper copies as is allowed under MCL 15.234(4).


Affiant says nothing further.



Lance Gackstetter
Michigan Department of State Police

Date: May 4, 2018

Subscribed and sworn to before me,
a Notary Public, this 4th day
of May, 2018


Notary Public, State of Michigan

Commission Expires: 3/31/24

#87

**CONCEALED PISTOL LICENSE
ANNUAL REPORT**

OCTOBER 1, 2015 TO SEPTEMBER 30, 2016



**MICHIGAN STATE POLICE
CRIMINAL JUSTICE INFORMATION CENTER**

CONCEALED PISTOL LICENSING ANNUAL REPORT
STATEWIDE TOTALS
GENERAL INFORMATION
OCTOBER 1, 2015 - SEPTEMBER 30, 2016

Applications Received ¹ :	179,940
Applications Issued:	170,961
Applications Pending:	4,931
Applications Disqualified ² :	3,040
Not a US Citizen or Immigrant Alien:	19
Did not Submit Appropriate Pistol Safety	
Training Certificate:	16
Mental Health Order:	30
Subject to Personal Protection Order/	
Injunctive/Conditional Bond Order:	59
Felony Conviction/Charges Pending:	773
Dishonorable Discharge - US Military:	2
Misdemeanor Conviction/Charges Pending:	1,460
Other Mental Health History:	39
Board Decision - Detrimental to Safety:	34
Board Decision - Other:	130
Incomplete Application:	10
Fugitive from Justice:	496
Unlawful User or Addicted to Controlled Substance:	17
Failed Reinstate Background Check:	13
No Disqualification Reason Listed by County Clerks:	2
Licenses Suspended:	1,928
Carried in Prohibited Premises - 1 st Offense:	5
Failure to Disclose Concealed Pistol to	
Peace Officer - 1 st Offense:	22
Other:	14
Mental Health:	7
Misdemeanor or Felony Pending:	1,123
Danger to Self or Another:	1
Carried Under the Influence (.02-<.08):	14
Carried Under the Influence (.08-<.10):	3
Refusal to Submit to Chemical Analysis:	8
Subject to PPO/Injunctive/Conditional Bond Order:	731

¹From October 1, 2015 – November 30, 2015, Applications Received is defined as the number of fingerprint requests received by the Michigan State Police (MSP) for the purpose of obtaining a license to carry a concealed pistol plus the number of renewals submitted electronically by the clerk's office. As of December 1, 2015, Applications Received is defined as the number of all applications submitted electronically by the clerk's office.

²Applications Disqualified includes those licenses with multiple statutory disqualification reasons. Therefore, the total number of disqualified applications is less than the total number of disqualification reasons.

Licenses Revoked:	2,054
Carried Under the Influence (.10 or higher):	16
Felony or Misdemeanor Charge Pending:	21
Other:	78
Mental Health:	24
Felony or Misdemeanor Conviction:	1,807
Subject to PPO/Injunctive/Conditional Bond Order:	69
Danger to Self or Another:	2
No Longer Resident:	8
Federally Disqualified	29
Number of Civil Infractions:	49
Number of Concealed Pistol License (CPL) Holders Convicted of a Crime:	2,553
Number of Suicides ³ :	84
Mean Amount of Time for FBI Clearance ⁴ :	9 Hours
Median Amount of Time for FBI Clearance ⁴ :	2 Minutes
Shortest Amount of Time for FBI Clearance ⁴ :	1 Minute
Longest Amount of Time for FBI Clearance ⁴ :	75 Days
The Total Number of Times the Database was Accessed:	2,022,546
The individual whose firearms records are the subject of disclosure poses a threat to himself or herself or other individuals, including a peace officer:	7,278
The individual whose firearms records are the subject of disclosure has committed an offense with a pistol that violates a law of this state, another state, or the United States:	1,328
The pistol that is the subject of the firearms records search may have been used during the commission of an offense that violates a law of this state, another state, or the United States:	25,307
To ensure the safety of a peace officer:	916,528
For purposes of this act:	1,024,807
A peace officer or an authorized user has reason to believe that access to the firearms record is necessary within the commission of his or her lawful duties. The peace officer or authorized system user shall enter and record the specific reason in the system in accordance with the procedures in section 5e:	47,298

³Suicide information was obtained from the Department of Health and Human Services (DHHS) and compared to the concealed pistol license database.

⁴The Mean, Median, Shortest and Longest Amount of Time for FBI Clearance is based on a statistically significant sample of requests.

CONCEALED PISTOL LICENSING ANNUAL REPORT
STATEWIDE TOTALS
REVENUE AND EXPENDITURES
OCTOBER 1, 2015 - SEPTEMBER 30, 2016

Revenue

Actual revenue from fees paid for CPL applications ⁵ :	\$ 8,020,921
Five year CPL revenue average:	\$ 5,012,806

Expenditures⁶

MCL 28.424, 28.425a, 28.425d, 28.428 ⁷ :	\$ 57,902
MCL 28.425, 28.425c, 28.425m ⁸ :	\$ 38,285
MCL 28.425b, 28.425e, 28.426 ⁹ :	\$ 1,799,429
Support systems utilized by the CPL unit:	\$ 5,425,305
Carryforward set aside for AFIS upgrade:	\$ 700,000

Concealed pistol license revenue is used to support the business operation of maintaining the concealed pistol license database, as well as the program used by the county clerks and the MSP CPL Unit to enter applicant information and conduct background checks. It is used for compiling the concealed pistol license annual report to the Legislature; developing, printing, and distributing required forms; providing training and support; legislative and legal resources, and attending gun board meetings (prior to December 1, 2015). In addition, concealed pistol license revenue, along with fingerprinting and Internet Criminal History Access Tool (ICHAT) fees, is used to support several criminal justice information systems used by law enforcement and criminal justice agencies, including the MSP CPL Unit.

⁵CPL revenue, less fingerprint processing fee. CPL revenue is cyclical; it fluctuates due to socioeconomic factors, elections and renewal cycles.

⁶The concealed pistol license expenses reported to the Legislature on December 1, 2016, pursuant to Public Act 84 of 2016, were based on different statutory reporting requirements.

⁷Employee and other costs for functions mandated under sections 4, 5a, 5d, and 8 of 1927 PA 372; MCL 28.424, 28.425a, 28.425d and 28.428 (unable to separate costs by section).

⁸Employee and other costs for functions mandated under sections 5, 5c, and 5m of 1927 PA 372; MCL 28.425, 28.425c, and 28.425m (unable to separate costs by section).

⁹Employee and other costs for functions mandated under sections 5b, 5e, and 6 of 1927 PA 372; MCL 28.425b, 28.425e, and 28.426 (unable to separate costs by section).

CONCEALED PISTOL LICENSING ANNUAL REPORT
STATEWIDE TOTALS
COUNTY COSTS
OCTOBER 1, 2015 - SEPTEMBER 30, 2016

The following is the actual cost per Concealed Pistol License application processed as reported by the County Clerk.

County	Cost Per Application	County	Cost Per Application
Alcona	\$16.61	Grand Traverse	\$12.29
Alger	\$35.16	Gratiot	\$7.67
Allegan	\$27.07	Hillsdale	\$4.61
Alpena	\$25.98	Houghton	\$10.53
Antrim	\$22.42	Huron	\$11.69
Arenac	\$37.57	Ingham	\$5.91
Baraga*	\$0	Ionia	\$9.58
Barry	\$11.75	Iosco	\$32.74
Bay*	\$0	Iron	\$35.00
Benzie	\$16.46	Isabella	\$6.06
Berrien	\$18.43	Jackson	\$24.00
Branch	\$24.75	Kalamazoo	\$21.00
Calhoun	\$10.22	Kalkaska	\$12.26
Cass	\$31.23	Kent	\$16.39
Charlevoix	\$6.25	Keweenaw	\$44.31
Cheboygan	\$13.23	Lake	\$43.63
Chippewa	\$43.15	Lapeer	\$9.70
Clare*	\$0	Leelanau	\$30.62
Clinton	\$18.78	Lenawee	\$16.86
Crawford	\$33.62	Livingston	\$19.29
Delta*	\$0	Luce	\$87.55
Dickinson	\$16.78	Mackinac	\$45.88
Eaton	\$10.35	Macomb	\$21.52
Emmet	\$18.74	Manistee	\$40.33
Genesee	\$18.15	Marquette	\$32.21
Gladwin	\$18.32	Mason	\$22.91
Gogebic	\$13.52	Mecosta	\$9.79

Menominee	\$36.61
Midland	\$54.68
Missaukee	\$13.17
Monroe	\$15.24
Montcalm	\$13.42
Montmorency	\$51.18
Muskegon	\$22.19
Newaygo	\$1.03
Oakland	\$18.45
Oceana	\$73.91
Ogemaw	\$29.59
Ontonagon	\$6.16
Osceola	\$8.71
Oscoda	\$20.49
Otsego	\$4.34
Ottawa	\$12.04
Presque Isle	\$1.22
Roscommon	\$9.23
Saginaw	\$13.07
St. Clair	\$41.57
St. Joseph	\$26.12
Sanilac	\$51.78
Schoolcraft	\$17.33
Shiawassee	\$3.58
Tuscola	\$12.09
Van Buren	\$18.71
Washtenaw	\$28.17
Wayne	\$39.30
Wexford	\$16.81

*Failed to report Concealed Pistol License processing costs.

**CONCEALED PISTOL LICENSING ANNUAL REPORT
STATEWIDE TOTALS
VIOLATION INFORMATION
OCTOBER 1, 2015 - SEPTEMBER 30, 2016**

The following is the total number of individuals licensed to carry a concealed pistol found responsible for a civil violation of the Michigan Firearms Act, and the total number of civil violations of the Michigan Firearms Act categorized by offense.

Civil Violations	Statute/PACC	Found Responsible
Failure to Disclose Concealed Pistol to Peace Officer - 1st Offense	28.425F5A	22
Carried Under the Influence with a Blood Alcohol Content (BAC) of .02 but Less Than .08	28.425K2C	14
Refusal to Submit to Chemical Analysis	28.425K7	8
Carried in a Prohibited Premises - 1st Offense	28.425O6A	5
Total Civil Violations		49

The following is the total number of individuals licensed to carry a concealed pistol convicted of a crime, and the total number of those criminal convictions categorized by offense.

Criminal Convictions	Statute/PACC	Conviction
Tobacco Products Act - 600 To 1,200 Cigarettes	205.42811	1
Tobacco Products Act - Miscellaneous Violations	205.4283	4
Tobacco Products Act Violations - Misdemeanor	205.4284	2
Operate Unregistered Vehicle	257.215	4
Motor Vehicle - Failure To Transfer Title	257.234	2
License Plate/Registration/Title - Unlawful Use	257.256	19
Operating - No License/Multiple Licenses	257.301	4
Operating - Without License On Person	257.311	193
Operating - Violation Of License Restrictions	257.312	3

Criminal Convictions	Statute/PACC	Conviction
Operating - License Forgery/Alteration/False Identification ,	257.324	3
Motor Vehicle - Let Unlicensed Minor To Operate	257.325	11
Operate - Owner Permitting Another To Violate Motor Vehicle Code	257.326	42
Motor Vehicle Code/Producing False Evidence Of Insurance	257.328	6
Moving Violation Causing Death	257.601D1	3
Moving Violation Causing Serious Impairment Of A Body Function	257.601D2	4
Police Officer - Refusal To Obey Traffic Order	257.602	3
Police Officer - Fleeing/Vehicle Code/4th Degree	257.602A2	6
Police Officer - Fleeing/Vehicle Code/3rd Degree	257.602A3-A	5
Failure To Stop At Scene Of A Personal Injury Accident	257.617A	1
Failure To Stop At Scene Of Property Damage Accident (Attended Vehicle)	257.618	3
Failure To Stop After Collision	257.620	3
Failure To Report Accident To Fixtures	257.621	5
Failure To Report Accident	257.622	12
Alcohol - Open Container In Vehicle	257.624A	19
Operating - While Intoxicated	257.6251-A	196
Operating - With A High BAC	257.6251C	35
Operating - BAC Of 10% Or More	257.6252	1
Operating - Allowing Intoxicated Person To Operate Motor Vehicle	257.6252-A	4
Operating - Impaired	257.6253-A	531
Operating - While Intoxicated Causing Death	257.6254	2
Operating - Under The Influence Causing Serious Injury	257.6255-A	1

Criminal Convictions	Statute/PACC	Conviction
Operating - Operating Under the Influence of Liquor/Per Se/Operating While Intoxicated - 2nd Offense Notice	257.6256B	38
Operating - OUIL/Per Se/OWI - 3rd Offense Notice	257.6256D	11
Operating - Under The Influence - Occupant Less Than 16	257.6257A1	5
Operating - Under The Influence - Occupant Less Than 16 - 2nd Or Subsequent Offense	257.6257A2	1
Operating - With The Presence Of A Controlled Substance	257.6258	2
Driving Reckless	257.626	17
Operating - Drag Racing	257.626A	1
Fail To Use Due Care Passing Stationary Emergency Vehicle - Causing Injury To Emergency Personnel	257.653A3	1
Operating - License Suspended/Revoked/Denied	257.9041B	132
License Suspended/Let Suspended Person Operate - 2nd Or Subsequent Offense	257.9041C	22
Motor Vehicles - Allowing A Suspended Person To Operate	257.9042-A	35
Operating - Suspended Or Revoked License	257.904-A	6
State Identification Card - Counterfeiting/Forging/Use To Commit A Felony Punishable By 10 Years Or Less	28.2951B-A	1
Weapons - Nonresident Failure To Present Concealed Carry Weapons License	28.4229-A	1
Weapons - Pistols - Carry Concealed While Under The Influence	28.425K2A	33
Weapons - Pistols - Carry Concealed With BAC Of .08 Greater Than But Less Than .10	28.425K2B	15
Weapons - Pistols - Carry Concealed With BAC Of .02 - .07 Grams - Subsequent Offense	28.425K2C	2
Carrying a Concealed Pistol In Prohibited Premises	28.425O5A	1
Animals - Dangerous Animal Causing Death	287.3231	1
Resisting & Obstructing - Conservation Officer	324.1608	1

Criminal Convictions	Statute/PACC	Conviction
Great Lakes - Altering Water/Land - Minor Offenses	324.325102	1
Wildlife Conservation Part - Possessing Firearm In Vehicle Or Motorized Boat	324.401112	2
Wildlife Conservation Part - Hunting/Shooting From Safety Zone	324.401114	2
Wildlife Conservation Part - Interfering With Another's Hunt	324.40112	2
Wildlife Conservation Part - Failure To Wear Hunter Orange	324.40116	1
Wildlife Conservation Part - General Violations	324.401181	1
Wildlife Conservation Part - Take Deer/Bear/Turkeys	324.401183	3
Hunting And Fishing License Part - No Hunting/Trapping License	324.435092	1
Charter Boats - No Certificate Of Inspection/Non Licensed Pilot	324.445021	1
Trespass - Recreational Trespass - Other Lands	324.731021	1
Marine Safety - OUIL/Per Se	324.801761	1
Marine Safety - Operating While Impaired	324.801763	3
Operating - Off Road Vehicle - OUIL/Per Se	324.81134	2
ORV - Allowing Intoxicated Person To Operate	324.811343	1
Operating - ORV - Fleeing And Eluding	324.811461	1
Snowmobiles - OUIL/Unlawful Bodily Alcohol Level	324.821271	1
Public Health Code - General Violations	333.1299	1
Controlled Substance - False Prescription	333.17766C	1
Ephedrine - Possession/More Than 10 Grams	333.17766C1	1
Controlled Substance-Drugs-Possess Of Forged Prescription	333.17766D	1
Controlled Substance - Delivery/Manufacture Narcotic, Heroin Or Cocaine 1,000 Or More Grams	333.74012A1	1

Criminal Convictions	Statute/PACC	Conviction
Controlled Substance - Delivery/Manufacture 450 - 999 Grams	333.74012A2	1
Controlled Substance - Delivery/Manufacture Narcotic, Heroin Or Cocaine 50 - 449 Grams	333.74012A3	4
Controlled Substance - Delivery/Manufacture Narcotic, Heroin Or Cocaine Less Than 50 Grams	333.74012A4	13
Controlled Substance - Delivery/Manufacture 5 - 45 Kilograms of Marijuana	333.74012D11	4
Controlled Substance - Delivery/Manufacture Marijuana	333.74012D3	16
Controlled Substance - Operating/Maintaining A Laboratory	333.7401C2A	1
Controlled Substance - Possession (Narcotic/Cocaine) Less Than 25 Grams	333.74032A5	31
Controlled Substance - Possession (Methamphetamine/Ecstasy)	333.74032B1	3
Controlled Substance - Possession (Analogues)	333.74032B-A	19
Controlled Substance - Possession (Schedule 1, 2, 3, Or 4)	333.74032B-B	1
Controlled Substance - Possession (Schedule 5 And LSD, Ecstasy)	333.74032C-A	1
Controlled Substance - Possession (Substance Added To Schedule 5 By Rule)	333.74032C-B	2
Controlled Substance - Possession (Marijuana)	333.74032D	178
Controlled Substance - Use (Narcotic/Cocaine/Methamphetamine/Ecstasy)	333.74042A	6
Controlled Substance - Use	333.74042B	5
Controlled Substance - Use (Marijuana)	333.74042D	17
Controlled Substance - Maintaining A Drug House	333.7405D	9
Controlled Substance - Obtain By Fraud	333.74071C	1
Controlled Substance - Attempt - Felony	333.7407A1-A	1
Controlled Substance - Distribution Without Remuneration (Marijuana)	333.74102	1
Occupational Code - Performing Occupation Without A License - First Offense	339.6013	2

Criminal Convictions	Statute/PACC	Conviction
Unlicensed Residential Builder	339.6016A	1
Truancy/School	380.1561	1
Fraud - Welfare (Fail To Inform) Less Than \$500	400.602-A	1
Unemployment Compensation Fraud	421.54B	1
Unemployment Compensation Fraud - False Statement/Misrepresentation - Loss of \$3,500 to \$25,000	421.54M	1
Gambling - Disassociated Person - Trespassing	432.22513	1
Alcohol - Selling/Furnishing To Minor	436.17011-A	1
Alcohol - Purchase/Consumption/Possession By Minor	436.17031A	1
Credit Services Act Violations	445.1823	1
Identity Theft	445.65	4
Debt Management Act - Licensee Violations	451.434	1
Motor Vehicle - Operate Without Security	500.3102	34
Criminal Contempt Of Court	600.1715	1
Domestic Violence - Personal Protection Order	600.2950	5
Children - Harboring Runaways	722.151-B	1
Tobacco - Furnishing To Minors	722.6411	3
Breaking And Entering - A Building With Intent	750.110	2
Home Invasion - 3rd Degree	750.110A4	1
Breaking And Entering - Illegal Entry (Without Owner's Permission)	750.115-A	5
Check - Non-Sufficient Funds Less Than \$100	750.1313A1	4
Check - Non-Sufficient Funds \$100 Or More But Less Than \$500	750.1313B1	5

Criminal Convictions	Statute/PACC	Conviction
Check - No Account	750.131A1	2
Check - Non-Sufficient Funds 3 Within 10 Days	750.131A2	2
Child Abuse - 2nd Degree	750.136B3	2
Child Abuse - 3rd Degree	750.136B4	1
Child Abuse - 4th Degree	750.136B5	1
Children - Contributing To Delinquency	750.145	1
Children - Accosting For Immoral Purposes	750.145A-A	2
Child Sexually Abusive Activity	750.145C2	3
Child Sexually Abusive Material - Possession	750.145C4-A	3
Vulnerable Adult Abuse - 4th Degree	750.145N4	1
Financial Transaction Device - Stealing/Retaining Without Consent	750.157N1	7
Financial Transaction Device - Possession Of Fraudulent One	750.157N2	7
Financial Transaction Device - Illegal Sale/Use	750.157Q	2
Financial Transaction Device - Forgery, Alteration Or Counterfeiting	750.157R	1
Child Support - Failing To Pay	750.165	6
Disorderly Person	750.167	64
Disorderly Person - Non-Support	750.1671A	5
Disorderly Person - Illegal Occupation	750.1671D-B	1
Disorderly Person - Drunk	750.1671E	10
Disorderly Person - Obscene Conduct	750.1671F	3
Disorderly Person - Vagrancy	750.1671G	1
Disorderly Person - Jostling	750.1671L	13

Criminal Convictions	Statute/PACC	Conviction
Disturbing The Peace	750.170	64
Embezzlement - Agent Or Trustee Less Than \$200	750.1742	4
Embezzlement - Less Than \$200 From A Non-Profit/Charitable Organization	750.1743A	8
Embezzlement-Less Than \$200 From A Non-Profit Or Charitable Organization	750.1743C	1
Embezzlement - Agent Or Trustee \$1,000 Or More But Less Than \$20,000	750.1744A	1
Embezzlement - \$200 Or More But Less Than \$1,000 From A Non-Profit/Charitable Organization	750.1744C	1
Embezzlement - Agent Or Trustee \$20,000 Or More But Less Than \$50,000	750.1745A	2
Embezzlement - \$100,000 Or More	750.1747	1
Embezzlement - From A Vulnerable Adult - \$200 Or More But Less Than \$1,000	750.174A3A	2
Embezzlement - Public Official Over \$50.00	750.175	1
Escape - Awaiting Trial For Misdemeanor	750.1971	1
Law Enforcement Badges - Emblem/Insignia/Identification - Unlawfully Wearing/Displaying	750.216B	1
Obstructing By Disguise	750.217	5
False Pretenses - Less Than \$200	750.2182	4
False Pretenses - \$200 Or More But Less Than \$1,000	750.2183A	5
False Pretenses - \$1,000 Or More But Less Than \$20,000	750.2184A	1
Weapons - Firearms - Sale Without Compliance	750.2231	1
Weapons - Miscellaneous	750.2241-A	1
Weapons - Firearms - Possession By Felon	750.224F	5
Weapons - Ammunition - Possession By Felon	750.224F6	2
Weapons - Switchblade - Possession Or Sale	750.226A	6

Criminal Convictions	Statute/PACC	Conviction
Weapons - Carrying Concealed	750.227	47
Weapons - Non-Pistol On Person - Carry Concealed	750.227-A	1
Weapons - Felony Firearms	750.227B-A	15
Weapons - Firearms - Possession Of Loaded Firearm In Or Upon A Vehicle	750.227C	11
Weapons - Firearms - Improper Possession Of A Firearm In Or Upon A Motor Vehicle	750.227D	6
Weapons - Firearms - Keeping Registration Records	750.232	2
Weapons - Firearms - Purchase Pistol Without License	750.232A1	13
Weapons - Firearms - Aiming Without Malice	750.233	3
Weapons - Firearms - Discharge While Aimed - Without Malice And Injury	750.234	1
Weapons - Firearms - Discharge From Vehicle	750.234A	1
Weapons - Firearms - Discharge In Or At A Building	750.234B	2
Weapons - Firearms - Brandishing In Public	750.234E	16
Weapons - Firearms - Possession Under The Influence	750.237	37
Weapon Free School Zones - Possessing Weapon	750.237A4	1
Uttering And Publishing	750.249	4
Uttering And Publishing A Document Affecting Real Property	750.249B	1
Counterfeiting - Coins/Possession Of 5 Or More	750.260	1
Counterfeiting - Delivery/Possess Property/Services With Counterfeit Identification	750.2632	1
Fraud - Common Law	750.280	1
Public Utility - Fraudulent Use Over \$500	750.282-B	1
Defrauding An Innkeeper	750.292	1

Criminal Convictions	Statute/PACC	Conviction
Homicide - Manslaughter - Involuntary	750.321-C	1
Lewd And Lascivious Conduct	750.335	1
Aggravated Indecent Exposure	750.335A2B	1
Gross Indecency Between Male And Female - Committing/Procuring	750.338B	1
Unlawful Imprisonment	750.349B	1
Kidnapping Child Enticement	750.350	1
Larceny - \$1,000 Or More But Less Than \$20,000	750.3563A	2
Larceny - \$200 Or More But Less Than \$1,000	750.3564A	9
Larceny - Less Than \$200	750.3565	21
Larceny - From A Motor Vehicle	750.356A1	1
Breaking And Entering - A Vehicle With Damage To Vehicle	750.356A3	1
Retail Fraud - 1st Degree	750.356C	3
Retail Fraud - 2nd Degree	750.356D	17
Retail Fraud - 3rd Degree	750.356D4	79
Larceny In A Building	750.360	3
Larceny By Conversion - \$200 Or More But Less Than \$1,000	750.3624A	2
Failure To Return Rented Property - \$1,000 Or More But Less Than \$20,000	750.362A3A	1
Malicious Destruction Of Personal Property - \$20,000 Or More	750.377A1A1	1
Malicious Destruction Of Personal Property - \$1,000 Or More But Less Than \$20,000	750.377A1B1	1
Malicious Destruction Of Personal Property - \$200 Or More But Less Than \$1,000	750.377A1C1	11
Malicious Destruction Of Personal Property - Less Than \$200	750.377A1D	11

Criminal Convictions	Statute/PACC	Conviction
Malicious Destruction Of A Building - \$200 Or More But Less Than \$1,000	750.3804A	5
Malicious Destruction Of A Building - Less Than \$200	750.3805	4
Malicious Destruction Of Property - Utility Property	750.383A	1
False Report Of A Misdemeanor	750.411A1A	3
False Report Of A Felony	750.411A1B	2
Stalking	750.411H	3
Motor Vehicle - Unlawful Driving Away	750.413	2
Motor Vehicle - Unlawful - 2 Year Misdemeanor	750.414	2
Prostitution/Engaging Services Of	750.449A	1
Medical Marijuana - Improper Transportation In A Vehicle	750.474	32
Police Officer - Fleeing - 4th Degree - Penal Code	750.479A2	3
Police Officer - Fleeing - 3rd Degree - Penal Code	750.479A3	3
Peace Officer - Disarming Firearm	750.479B2	1
Lying To A Peace Officer - 1 To 4 Year Crime Investigation	750.479C2B	1
Lying To A Peace Officer - 4 Year Or More Crime Investigation	750.479C2C	1
Interfering With Crime Report	750.483A2A	2
Interfering With A Police Investigation	750.483A4A	1
Animals - Abandoning/Cruelty To 2 Or 3 Animals	750.504B	1
Animals - Abandoning/Cruelty To One Animal Resulting In The Animal's Death	750.504B-A	1
Accessory After The Fact To A Felony	750.505-B	1
Animals - Killing/Torturing	750.50B	1
Criminal Sexual Conduct - 1st Degree (Person Under 13)	750.520B1A	1

Criminal Convictions	Statute/PACC	Conviction
Criminal Sexual Conduct - 1st Degree (Relationship)	750.520B1B	1
Criminal Sexual Conduct - 1st Degree (Person Under 13, Defendant 17 Or Older)	750.520B2B	1
Criminal Sexual Conduct - 2nd Degree (Person Under 13)	750.520C1A	3
Criminal Sexual Conduct - 2nd Degree (Relationship)	750.520C1B	1
Criminal Sexual Conduct - 2nd Degree (Person Under 13, Defendant 17 Or Older)	750.520C2B	5
Criminal Sexual Conduct - 4th Degree (Force Or Coercion)	750.520E1A	2
Criminal Sexual Conduct Assault With Intent To Commit Sexual Penetration	750.520G1	2
Criminal Sexual Conduct - 2nd Degree (Assault)	750.520G2	3
Armed Robbery	750.529	1
Unarmed Robbery	750.530	1
Stolen Property - Receiving And Concealing - \$200 Or More But Less Than \$1,000	750.5354A	4
Stolen Property - Receiving And Concealing - Less Than \$200	750.5355	3
Stolen Property - Receiving And Concealing - Motor Vehicle	750.5357	3
Surveilling Unclothed Person	750.539J2A1	1
Capturing Distributing Image Of Unclothed Person	750.539J2B	1
Interfering With Electronic Communications	750.5405A	6
Telecommunications Service - Malicious Use	750.540E	8
Phone Call - Malicious Use to Threaten	750.540E1A	1
False Report Or Threat Of Terrorism	750.543M	1
Trespassing	750.552	13
Littering - Private Property	750.552A	1
Assault Or Assault And Battery	750.81	49

Criminal Convictions	Statute/PACC	Conviction
Domestic Violence	750.812	174
Domestic Violence - 2nd Offense	750.813	5
Domestic Violence - 3rd Offense	750.814	1
Aggravated Assault	750.81A	17
Domestic Violence - Aggravated	750.81A2	14
Police Officer - Assaulting/Resisting/Obstructing	750.81D1	42
Police Officer - Assaulting/Resisting/Obstructing Causing Injury	750.81D2	3
Police Officer-Assaulting/Resisting/Obstructing Causing Serious Impairment	750.81D3	1
Assault With Dangerous Weapon	750.82	36
Assault/Bodily Harm Less Than Murder	750.84	10
Torture	750.85	1
Computer - Use To Commit A Crime - Maximum 4 Years Or More But Less Than 10 Years	752.7973D	3
Firearms - Discharge With Injury Or Death	752.861	4
Firearms - Careless Discharge/Property Damage \$50 Or Less	752.862-A	1
Firearms - Careless Discharge/Property Damage Over \$50	752.862-B	1
Reckless Use Of Firearms	752.863A	20
Habitual Offender - 2nd Offense	769.10	1
Tampering With Electronic Monitoring Device	771.3F	1
Total Criminal Convictions		2,982

MICHIGAN NEWS

Gun group sues Michigan State Police to see how CPL fees are spent

Updated Apr 9;
Posted Apr 9



A lawsuit seeks to find obtain more details about CPL fees. (MLive.com file photo | Nick Tremmel)

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By **Brad Devereaux**, bdeverea@mlive.com

LANSING, MI -- Michigan Open Carry is taking the Michigan State Police to court, arguing the agency should be required to disclose details about how revenue from Concealed Pistol License fees paid to the state is spent.

The case comes after Michigan Open Carry, a nonprofit group of gun owners and advocates, sent a Freedom of Information Act request for information about what the state police is spending Concealed Pistol License fee revenue on. The MSP responded by referring to a public document that lists the total amount spent, according to Michigan Open Carry President Tom Lambert.

"We noticed that they were not reporting a 'list of expenditures,' as the law dictates, but rather only a small list of general categories. Further, over 75 percent of their reported expenses (nearly \$6 million) was grouped into a generic category of 'support systems,'" Lambert said.

The report "doesn't come close to satisfying our request," he said.

MSP believes it fulfilled the FOIA request, spokeswoman Shanon Banner said on April 6.

"We have no comment on the lawsuit specifically," she said.

Lambert believes MSP is required to disclose a list of expenditures that shows specifically what the money is spent on and how much, Lambert has said, citing language



in the law that describes a "list of expenditures."

MSP collected about \$7.7 million in concealed pistol license fees over a year, according to the latest figures in a report released by the agency. 1

More than \$5.8 million, or about 75 percent of CPL revenue it collected during the Fiscal Year beginning Oct. 1, 2016, and ending Sept. 30, 2017, went to fund support systems, MSP said.

Lambert, of Kent County, calls the nearly \$6 million "profit" and wants to know exactly what it is being spent on.

"Hopefully, it's as clear to you as it is to us that the MSP is hiding something. If you were making a 75 percent profit on licensing fees, you would probably want to protect it too," Lambert said in a prepared statement.

Michigan State Police spokeswoman Lori Dougovito has said the fee amounts are set by statute.



Lambert contends that he was in on the bargaining of the bill along with Sen. Mike Green's office, and MSP was in on it, too.

"MSP bargained for higher fees," he said previously.

Dougovito referred to the information in its published report, the same one MSP referred Lambert to, when MLive asked for more details about how CPL revenue is spent.

The money is used to support the business operation of maintaining the concealed pistol license database, and the program used by county clerks and the Michigan State Police CPL unit to enter applicant information and conduct background checks, according to the report.

It is used for compiling the concealed pistol license annual report to the Legislature; developing, printing, and distributing required forms; providing training and support; and legislative and legal resources, the report states.



The funds are also used to support criminal justice information systems, MSP said in the report.

Michigan Open Carry hired Attorney Philip Ellison of Saginaw County and he filed the lawsuit March 29 in the Michigan Court of Claims to fight for more details to be released.

Ellison said MSP did not send a denial in response to the Michigan Open Carry's FOIA request and did not assert any exemptions that can be cited as reasons for non release of certain types of information.

"The state has a responsibility like every other government to make all its information accurately and properly available when it is requested by citizens and advocacy groups, and anybody," Ellison said.

"This lawsuit is not about guns, it's about knowing about how the government is using or misusing tax dollars."

Lambert said it's an issue of transparency and holding a governmental department accountable, which can't happen unless information is available to evaluate its actions.



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